

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

METROKANE, INC.,

Plaintiff,

v.

HOUDINI, INC.,

Defendant.

Case No. 08-CV-5841 (NRB)

ECF Case

**STIPULATION AND ORDER
TRANSFERRING ACTION
PURSUANT TO 28 U.S.C. § 1404(A)**


IT IS HEREBY STIPULATED, CONSENTED TO AND AGREED, by and between counsel for the referenced parties, as follows:

1. Defendant, Houdini, Inc., has filed a motion for an order staying or transferring this action, pursuant to 28 U.S.C. § 1404(a), to the United States District Court for the Central District of California, Western Division ("the California court").
2. The parties, by and through their counsel, have conferred and agreed that transfer of this action for the purpose of consolidation with an action pending in the California court, entitled *Houdini, Inc. v. Metrokane, Inc.*, Civil Action No. CV08-03076 PA (FMOx), would result in greater efficiencies and cost savings through joint discovery and simplified resolution of common factual and legal issues, and would be in the interest of justice. Notwithstanding such transfer, the parties agree that the deposition of any director, officer, shareholder, employee or agent of Metrokane, Inc., if noticed, shall be taken in New York City or at such other nearby location convenient for said deponents, as counsel may agree.
3. The parties have further stipulated that this Court, as well as the California court, have personal jurisdiction over the parties with respect to the claims asserted in this action and that venue of this action is proper in this judicial district and in the California court.

4. Accordingly, the parties hereby request that the Court transfer this action to the United States District Court for the Central District of California, Western Division, pursuant to 28 U.S.C. § 1404(a), and that no costs or fees be awarded on this motion.

IT IS SO ORDERED:

Dated: August 13, 2008.


NAOMI REICE BUCHWALD
UNITED STATES DISTRICT JUDGE

Counsel for the parties hereby stipulate to the form and entry of this Order:

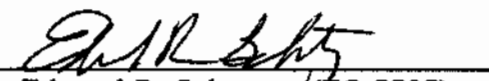
RIKER DANZIG SCHERER HYLAND
& PERRETTI LLP
Attorneys for Plaintiff
Metrokane, Inc.

By 
Robert J. Schoenberg (RS-8777)

Headquarters Plaza
One Speedwell Avenue
Morristown, New Jersey 07962-1981
Telephone: (973) 538-0800
Facsimile: (973) 451-8604
Email: rschoenberg@riker.com

Dated: August 11, 2008

CHRISTIE, PARKER & HALE, LLP

By 
Edward R. Schwartz (ES-7787)

350 W. Colorado Blvd, Suite 500
Pasadena, California 91109-7068
Telephone: (626) 795-9900
Facsimile: (626) 577-8800
Email: ers@cph.com

/s/ Miriam S. Alers

Miriam S. Alers (MA-0333)
1 Summit Street
Tarrytown, NY 10591
Telephone: (914) 631-1203

Attorneys for Defendant
Houdini, Inc.

Dated: August 11, 2008